

Message Text

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PAGE 01 NAHA 00250 211013Z

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ACTION EA-10

INFO OCT-01 ISO-00 PM-03 NSC-05 SP-02 SS-15 CIAE-00 INR-07

NSAE-00 DODE-00 L-02 H-02 /047 W

----- 121410

R 210859Z MAY 75

FM AMCONSL NAHA

TO AMEMBASSY TOKYO

INFO SECSTATE WASHDC 1726

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E. O. 11652: NA

TAGS: MARR, JA

SUBJECT: U.S. COMMISSIONER DISMISSES VFW CLAIM

1. IN DECISION MAY 21, U.S. LAND CLAIMS HEARING COMMISSIONER IRVING EISENSTEIN DISMISSED CLAIM AGAINST U.S. FOR DAMAGES IN LIEU OF RESTORATION OF LAND UNDERLYING VFW BUILDING AT TIME OF OKINAWA REVERSION (MAY 15, 1972). TEXT OF CONCLUSION FOLLOWS:
QUOTE. FROM THE EVIDENCE IN THE RECORD, THE CONCLUSION IS INESCAPABLE THAT THE ACTUAL AGREEMENT EXCLUDING THE VFW SITE FROM THE MILITARY MAKIMINATO SERVICE AREA WAS REACHED BY JAPAN AND THE UNITED STATES ON MAY 15, 1972, IMMEDIATELY AFTER THE REVERSION OF OKINAWA TO JAPAN. THE EVIDENCE ESTABLISHES THAT THE GOVTS HAS REACHED AN AGREEMENT IN PRINCIPLE PRIOR TO 15 MAY 1972, SUBJECT TO

PAGE TWO RHAIBQA 3677 C O N F I D E N T I A L

DETERMINATION OF BOUNDARIES AND PERHAPS OTHER DETAILS, BUT PRIOR TO CONCLUSION OF THE DEFINITE AND BINDING AGREEMENT OF 15 MAY THE CONVERSATIONS AND COMMITMENTS MUST BE REGARDED AS PRELIMINARY OR INTERLOCUTORY. CLEARLY, PRIOR TO 15 MAY 1972 THERE WOULD HAVE BEEN NO AVAILABLE EVIDENCE TO SUPPORT CLAIMS FOR RESTORATION DAMAGES UNDER THE LOCAL LAW THEN IN FORCE. DESPITE THE INTENTION OF SOME OF NEGOTIATING GOVT REPRESENTATIVES, I AM AWARE OF NO BASIS FOR APPLYING PRE-REVERSION LAW TO VALIDATE CLAIMS THAT COULD NOT ARISE UNTIL AFTER REVERSION. IT WOULD SEEM THAT THIS COULD BE DONE ONLY BY GIVING RETROACTIVE LEGAL EFFECT TO A SUBSEQUENTLY MATURING CLAIM,
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A THEROY FOR WHICH I KNOW OF NO LEGAL BASIS. I MUST THEREFORE

CONCLUDE THAT THE PETITION FAILS TO PRESENT A MATTER WITHIN MY
AUTHORITY. THE PETITION IS HEREBY DISMISSED FOR LACK OF JURISDICTION.
END QUOTE.

2. COMMENT: FEXT LEGAL RECOURSE FOR PETITIONERS IN JAPANESE
COURTS, WHICH ARE PROBABLY AS LITTLE INTERESZED IN ASSERTING
JURISDICTION AS U.S. COMMISSION. PETITIONERS HAVE SIGNALLED,
HOWEVER, THAT THEY WILL TRY TO RAISE MATTER IN JAPANESE DIET,
CITING STATEMENT BY FORMER PRIME MINISTER SATO IN DIET
INTERPELLATION THAT AGREEMENT TO RELEASE VFW SITE WAS REACHED
BEFORE MAY 15, 1972.

SYLVESTER

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Message Attributes

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Draft Date: 21 MAY 1975
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Disposition Approved on Date:
Disposition Authority: johnsorg
Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
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Disposition History: n/a
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05 JUL 2006

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